

1 JUDGE LUTON: Wait a minute. Without the letter
2 that you're talking about, I look at the second page here,
3 enclosed is a commitment letter to TR as received from its
4 primary funder regarding its own financing. I'd like to ask
5 the licensee or Mr. Schult who's your primary funder?
6 What's his name? What kind of relationship do you have with
7 him? For how much money? What are the terms and
8 conditions? If that turns out to be Mr. Stevens, then I'm
9 talking about Mr. Stevens. Yes, indeed I'd like to talk to
10 Mr. Stevens if I were the Bureau.

11 MR. BERLIN: But from what we --

12 JUDGE LUTON: Even now without this letter, that
13 letter doesn't play any part in that. Mr. Schult's
14 testimony is the thing that makes Mr. Stevens relevant in my
15 view.

16 MR. BERLIN: What I was I guess leading to was
17 with everything coming in bit by bit at the last minute,
18 it's very difficult for me to even prepare any kind of case.

19 JUDGE LUTON: It surely is.

20 MR. BERLIN: Who to call or who I will cross
21 examine if at the last minute there's going to be somebody
22 new coming in.

23 JUDGE LUTON: To get faxes. I mean, it's awful.
24 This is no way to try a case. I can give you ten days,
25 Mr. Inman, to get your own testimony in here. Speaking only

1 to what's left here, I don't want new evidence or new
2 offerings. But I need for you to as Mr. Berlin says by
3 these papers or this paper together with what you want to
4 record to show. And since this piece of paper that I expect
5 you're going to try to introduce is apparently written by
6 Dane Schult, better have Mr. Schult ready to back it up.

7 MR. INMAN: All right. If I understand --

8 JUDGE LUTON: There should be no occasion now for
9 faxes.

10 MR. INMAN: Yes, sir.

11 MR. ZAUNER: Your Honor, may I be heard on one
12 point?

13 JUDGE LUTON: Of course.

14 MR. ZAUNER: Your Honor, this station has been off
15 the air for over five years. It's been silent. It's been
16 off the air as I understand it at least since October 1st,
17 1995 without authority to remain silent. And I think that
18 any statement that is submitted should address the reasons
19 why the licensee has not put the station on the air over
20 this period of time.

21 And why now only after the hearing designation
22 order is released does it come in with a plan to put the
23 station back on the air. I think that should be part of the
24 licensee's showing.

25 I think if we are going to be relying on this

1 licensee's future performance, I think it's past record of
2 lack of diligence in returning the station to the air has a
3 bearing on that promise.

4 JUDGE LUTON: That is a troublesome matter. I
5 would rather see that drawn from Mr. Inman on cross
6 examination. Mr. Inman will testify next time because he's
7 going to give us writing, aren't you Mr. Inman?

8 MR. INMAN: Yes, sir.

9 JUDGE LUTON: He could be asked about that, let
10 him speak. Those may be -- the answer to that question may
11 be useful for the Bureau's purposes. I'm not sure that it's
12 particularly useful, the answers would be particularly
13 useful for my own purposes. That's why I would prefer not
14 to require a writing, but to permit the Bureau to elicit
15 that information that it thinks it needs by examining
16 Mr. Inman. Yes, Mr. Inman.

17 MR. INMAN: You just answered my question.

18 JUDGE LUTON: Can I answer your question?

19 MR. INMAN: I said, you just did.

20 JUDGE LUTON: We're going to give you another
21 chance, Mr. Inman, to get through this little hurdle here,
22 but it's a necessary one for you to preserve your license.
23 Just peppering the Judge with papers and the Bureau with
24 faxes does not a case make. As you can see, not one of
25 those faxes has gotten anywhere this morning.

1 MR. INMAN: Yes, sir.

2 JUDGE LUTON: By Friday, August the 9th, Mr.

3 Inman, I'm going to require you have submitted the proper
4 way, not by fax, filed with the secretary, service on all
5 the parties.

6 MR. INMAN: Your Honor, could you explain
7 something to me, please?

8 JUDGE LUTON: I'll try.

9 MR. INMAN: You said in writing we'll need to show
10 the extent of validity of the statements. But what way do
11 you mean? The reason I'm asking is I misunderstood several
12 things in my conversations and I want to make sure I do my
13 best to get the proper information to you.

14 JUDGE LUTON: I think the Bureau is to be
15 commended, by the way, for trying to assist you, Mr. Inman.

16 MR. INMAN: I do appreciate it.

17 JUDGE LUTON: He can explain these things better
18 than I can. In its simplest way, what we need from you,
19 Mr. Inman, is a written narrative statement really speaking
20 to the two issues or is that three, just two.

21 The first two issues stated in the designation
22 letter, namely the capability and intent to resume
23 operations and whatever you have to say about the apparent
24 violations of Sections 73.1740 and 73.1750 of the
25 Commission's rules. Along with your explanation of what

1 this, what use you'd like for us to make of this July 29,
2 1996 letter signed by Mr. Dane Schult.

3 You've got to be prepared to backup anything that
4 you say, that you say, because you'll have to take the
5 stand, be sworn and be examined. And if you rely on what
6 somebody else says, like Mr. Schult, for example, Mr. Schult
7 has to be here so that he can take the stand, he can say,
8 yes, this is my letter. I wrote it and what do you want to
9 know about it? What else?

10 MR. ZAUNER: Your Honor, the Bureau on
11 consideration of this procedure must impose an objection.
12 This is a station that's been off the air for a long period
13 of time. It's been off the air without authority. We've
14 designated it. The licensee's been given a full and fair
15 opportunity to come in and make its case. It has come in
16 woefully unprepared today on the day of the hearing. And
17 what Your Honor is doing is creating a burden on the Bureau
18 and on its resources and on the public which must pay your
19 salary and my salary to have these hearings and requiring us
20 to go through and have another in effect hearing and go
21 through this whole process a second time. This is not a
22 proper way of receiving and the Bureau objects to --

23 JUDGE LUTON: The objection is noted. I'm still
24 going to do it. August 9. August 9. No later than that,
25 we need to hear from you.

1 MR. INMAN: Yes, sir.

2 JUDGE LUTON: And we'll be back here for hearing,
3 it's understood that there will be two witnesses, yourself
4 and Mr. Schult and possibly three, Mr. Stevens, if -- in
5 your direct testimony, why don't you try to clear up just
6 what this relationship is or have Mr. Schult clear up
7 between this RJ Financial and Tex Rock. The Bureau's going
8 to want to ask about that. Even if it doesn't, I'm going to
9 want to know something about it. So in your testimony, you
10 may find yourself having to refer to people whose names we
11 haven't even heard yet. Or maybe Mr. Stevens or something.
12 But whoever you talk about as having any role in this has to
13 be ready to take that stand and be examined about it. You
14 can't just come in with a letter from somebody or a name and
15 not have the person here available to be examined. So I'm
16 going to expect you without the Bureau having to make
17 requests for people to bring them in, bring in your whole
18 team, all of those people that you think are necessary for
19 you to make your case. Now I can't say anymore about it.
20 And, yes, the Bureau will be burdened, the Commission will
21 be burdened, the taxpayers will be burdened. Everybody will
22 be burdened, but I'm trying, taking everything into
23 consideration here, the fact that you tried, the fact that
24 you have a valuable resource that you'd like to hang onto,
25 that you'd certainly like a fair opportunity to hang onto,

1 even if it doesn't work out that way ultimately. I'm
2 willing to burden the Bureau, the taxpayers and myself and
3 require that we be back here again for hearing on the 14th
4 of August. Yes, in about two weeks.

5 MR. BERLIN: What day of the week is that?

6 JUDGE LUTON: That's a Wednesday.

7 MR. BERLIN: Now, Your Honor, am I to assume then
8 that any names that are brought up, whether it's Mr. Stevens
9 or anybody else and if they aren't here, then that part will
10 just be stricken as potential evidence?

11 JUDGE LUTON: It will certainly -- that's the
12 likely result, but it will depend on in just ways those
13 names are invoked, of course. I can't rule without seeing
14 it. But surely again a caution to you, Mr. Inman, don't
15 expect to offer anything from people who are not here. It
16 most likely won't work.

17 Right now the Bureau's case is all in. Mr. Inman,
18 you have yours yet to make. And it's been slimmed down in
19 terms of exhibits to this July 29, 1996 letter from Tex
20 Rock. And it's a proposed exhibit only. It will not become
21 an exhibit until we go through the rigmarole of the next
22 session of this hearing.

23 So I'm going to recess this hearing now unless
24 somebody wants to rise something else. All right. We'll be
25 recessed until Wednesday, August 14th at 10:00 o'clock in

1 the morning. Thank you, very much.

2 (Whereupon, at 11:45 a.m. the hearing was recessed

3 until Wednesday, August 14th at 10:00 a.m.)

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REPORTER'S CERTIFICATE

FCC DOCKET NO.: 96-92
CASE TITLE: AJI BROADCASTING, INC.
HEARING DATE: July 30, 1996
LOCATION: Washington, D. C.

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Communications Commission.


Date: 7/30/96


Official Reporter
Heritage Reporting Corporation
1220 "L" Street, N.W.
Washington, D.C. 20005
Perry S. Patterson

TRANSCRIBER'S CERTIFICATE

I hereby certify that the proceedings and evidence were fully and accurately transcribed from the tapes and notes provided by the above named reporter in the above case before the Federal Communications Commission.

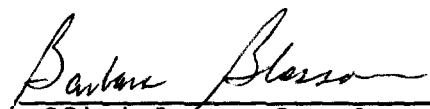
Date: 8/1/96


Official Transcriber
Heritage Reporting Corporation
Pamela A. Stevens

PROOFREADER'S CERTIFICATE

I hereby certify that the transcript of the proceedings and evidence in the above referenced case that was held before the Federal Communications Commission was proofread on the date specified below.

Date: 8/6/96


Official Proofreader
Heritage Reporting Corporation
Barbara Blossom

Declaration

I, Glenn Greisman, an Industry Analyst with the Audio Services Division ("ASD"), do hereby state, under penalty of perjury, that to the best of my knowledge and belief, the following is true and correct:

RECEIVED

AUG 14 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

My duties include the maintenance of records relating to radio stations licensed by the Federal Communications Commission. Specifically, my duties include the preparation of routine grants of requests for Special Temporary Authorizations ("STAs") to remain silent. As part of my duties, I have searched the Commission's files for documents related to the request for authority to remain silent filed by AJI Broadcasting, Inc. ("AJI"), licensee of Station KRBG(FM), Canadian, Texas. The documents described below were obtained from official Commission records.

On December 10, 1991, the Commission first granted Megahype Broadcasting Partnership ("Megahype") (AJI's predecessor) an STA for Station KRBG(FM) to be silent, after Megahype advised the Commission that, for financial reasons, it was forced to cease operations. See letters attached hereto as Attachment 1.

On August 31, 1992, the Commission granted an application to assign the license of KRBG(FM) to Carolina Communications (Carolina), but Carolina was unable to return the station to the air. Consequently, on September 21, 1994, Carolina filed an application to assign the station's license to AJI, and that application was granted on December 20, 1994, subject to the condition that broadcast operations be resumed within 60 days of the date of consummation.

Federal Communications Commission

Docket No. 96-92 Exhibit No. MMB-1

Presented by Mass Media Bureau/Mark Berlin

Disposition	{	Identified	<u>X</u>
		Received	<u>X</u>
		Rejected	<u> </u>

Reporter Patterson, Peter S.

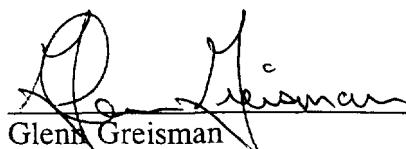
Date 7/30/92

The assignment was consummated on February 16, 1995, but the station did not return to the air. On June 2 and July 17, 1995, the Chief of the FM Branch advised AJI that it had not complied with the condition placed upon the December 20, 1994 grant of the assignment application, and AJI was advised that, if it did not respond within 30 days, actions would be taken jeopardizing the station's license and call sign. See letters attached hereto as Attachment 2.

On July 20, 1995, AJI requested an STA to allow the station to remain silent while an authorized facility upgrade was being completed. AJI stated that an extension was necessary due to health problems of the sole shareholder of the licensee. On August 23, 1995, the Assistant Chief of the Audio Services Division, granted AJI's STA request and extended its authority to remain silent until October 1, 1995. See letters attached hereto as Attachment 3.

On April 1, 1996, in the context of an application for extension of time for the construction permit to modify the facilities of KRBG(FM), the Chief, Audio Services Division rejected AJI's general allegations of health problems as an excuse for not proceeding with construction. Accordingly, AJI's extension application was denied and its construction permit was cancelled. See letter attached hereto as Attachment 4.

A search of the Commission's records does not reveal either a request by AJI for authorization to remain silent following its July 20, 1995 request or a grant by the Commission of any extension of such authority beyond October 1, 1995.


Glen Greisman

ATTACHMENT 1

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

1080 11-27-91
51604 91122A

IN REPLY REFER TO:
8920-GDG

Megahype Broadcasting Partnership
c/o Mark Jones
P.O. Box 61
Flat River, Missouri 63601

In re: KRBG (FM) Canadian, Texas
Request for Special Temporary
Authority

Dear Licensee:

This letter concerns the request, filed November 26, 1991, for special temporary authority to permit FM Station KRBG to remain silent.

Your letter indicates that financial reasons have forced KRBG to cease on-air operations. Accordingly, special temporary authority is granted through February 27, 1992 to permit FM Station KRBG to remain silent. Please note that any prescribed tower lighting must be maintained during this period, and that no extension of this authority is contemplated absent detailed substantial progress towards resolving the station's problems. In the event the station is able to resume on-air operations prior to the expiration of this authority, please notify this office in writing of the particulars.¹

Sincerely,

Dennis Williams
Chief, FM Branch
Audio Services Division
Mass Media Bureau

cc: EIC Dallas
GDGreisman: FM Branch

¹This notification should be addressed to:

Federal Communications Commission
Attention: Glenn Greisman, Room 332
Washington, D.C. 20554

GLEN GREISMAN
FEDERAL COMMUNICATION COMMISSION
1919 N ST NW RM 332
WASHINGTON DC 20554

NOV 22 1991

Dear Mr Greisman,

Please except our request for special temporary
authority to remain silent, do to financial reasons on
station KRBG Canadian Tx. As I mentioned to you by phone
today, we had received nothing from Commission in response
to our letter of request last May.

It was a pleasure speaking to you today.

looking forward hearing from you.

Please note my address is:

Mark Jones

P.O. Box 61

Flat River MO 63601

NOV 26 1991

Sincerely,

Mark Jones.

Mark Jones

ATTACHMENT 2

FCC MAIL SECTION

JUN 6 8 18 AM '95

DISPATCHED BY

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

332-W

June 2, 1995

In Reply Refer To:
1800B3-GDG

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

AJI Broadcasting, Inc.
Route 1, Box 57-A
Whiteville, N.C. 28472

In re: KRBG(FM) Canadian, Texas
Operational Status Inquiry

Dear Licensee:

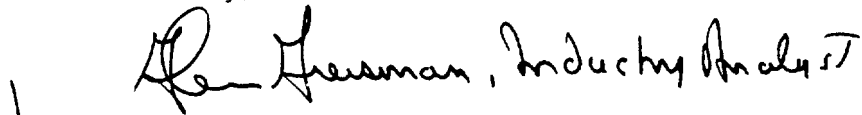
A review of our silent station database indicates that FM Station KRBG has been silent since April 30, 1991. Our records also reveal that you consummated your purchase of the station on February 16, 1995, but that you apparently have not complied with the condition placed upon the December 20, 1994 grant of the application for the voluntary assignment of the station's license. That condition required that you resume broadcast operations pursuant to Section 73.1740(a)(1) of the Commission's Rules within sixty days of consummation, and that you notify this office in writing of the fact.

If our records are in error, please indicate the date KRBG resumed operations pursuant to the minimum operating schedule requirements of Section 73.1740(a)(1). If the station remains silent, please explain your failure to keep this office properly informed pursuant to Sections 73.1740(a)(4) and 73.1635 of the Commission's Rules. In the event you seek to modify the condition placed upon the grant of the assignment of the station's license, please detail the necessity for this action and specify a projected date for resumption of broadcast operations.

Questions regarding the content of this letter may be directed to Glenn Greisman, Industry Analyst, at (202) 418-2772. If no response to this letter is received within thirty (30) days of the date of this letter, actions will be taken jeopardizing both the station's license and call

letters.¹

Sincerely,


for Dennis Williams
Chief, FM Branch
Audio Services Division
Mass Media Bureau

¹Please mail your response to:

Federal Communications Commission
Attn: Glenn Greisman, Industry Analyst
Room 332
Washington, D.C. 20554

FCC MAIL SECTION

332-N

JUL 18 7 54 AM '95

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

DISPATCHED BY

July 17, 1995

In Reply Refer To:
1800B3-GDG

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

AJI Broadcasting, Inc.
c/o William J. Pennington, III, Esq.
5519 Rockingham Road-East
Greensboro, N.C. 27407

In re: KRBG(FM) Canadian, Texas
Operational Status Inquiry

Dear Licensee:

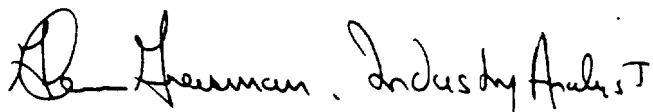
A review of our silent station database indicates that FM Station KRBG has been silent since April 30, 1991. Our records also reveal that you consummated your purchase of the station on February 16, 1995, but that you apparently have not complied with the condition placed upon the December 20, 1994 grant of the application for the voluntary assignment of the station's license. That condition required that you resume broadcast operations pursuant to Section 73.1740(a)(1) of the Commission's Rules within sixty days of consummation, and that you notify this office in writing of the fact.


If our records are in error, please indicate the date KRBG resumed operations pursuant to the minimum operating schedule requirements of Section 73.1740(a)(1). If the station remains silent, please explain your failure to keep this office properly informed pursuant to Sections 73.1740(a)(4) and 73.1635 of the Commission's Rules. In the event you seek to modify the condition placed upon the grant of the assignment of the station's license, please detail the necessity for this action and specify a projected date for resumption of broadcast operations.

Questions regarding the content of this letter may be directed to Glenn Greisman, Industry Analyst, at (202) 418-2772. If no response to this letter is received within thirty (30) days of the date of this letter, actions will be taken jeopardizing both the station's license and call

letters.¹

Sincerely,

 Industry Analyst

 Dennis Williams
Chief, FM Branch
Audio Services Division
Mass Media Bureau

¹Please mail your response to:

Federal Communications Commission
Attn: Glenn Greisman, Industry Analyst
Room 332
Washington, D.C. 20554

ATTACHMENT 3

FCC MAIL SECTION

332-N

AUG 25 3 08 PM '95

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

DISPATCHED BY

August 23, 1995

In Reply Refer To:
1800B3-GDG

AJI Broadcasting, Inc.
c/o William J. Pennington, III, Esq.
5519 Rockingham Road-East
Greensboro, N.C. 27407

In re: KRBG(FM) Canadian, Texas
Request to Modify Conditioned Grant
File No. BALH-940921GK

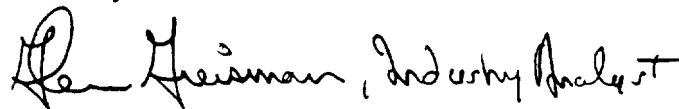
Dear Licensee:

This letter concerns your request, dated July 20, 1995, for special temporary authority to permit FM Station KRBG to remain silent.

KRBG has been silent since April 30, 1991. Our records reveal that you consummated your purchase of the station on February 16, 1995, but that you apparently have not complied with the condition placed upon the grant of the application for assignment of the station's license that you resume broadcast operations pursuant to Section 73.1740(a)(1) of the Commission's Rules within sixty days of consummation. Your request states that this delay is the result of the health problems suffered by the licensee's sole shareholder, and that you anticipate that the station will return to operational status October 1, 1995.

Accordingly, the condition placed upon the Commission's December 20, 1994 grant of the referenced application is modified to require resumption of broadcast operations by October 1, 1995.

Sincerely,


for Dennis Williams, Assistant Chief
Audio Services Division
Mass Media Bureau

WILLIAM J. PENNINGTON, III
Attorney at Law
5519 Rockingham Road-East
Greensboro, NC 27407
(910) 299-5257

July 20, 1995

VIA FACSIMILE
(202) 418-1410

Glen Greisman
Federal Communications Commission
FM Branch, Room 332
1919 M Street, NW
Washington, DC 20554

RE: Request for Special Temporary Authority to Allow FM
Station KRBG to Remain Silent.

Dear Mr. Greisman:

This letter is being written in response to the Commission's letter of July 17, 1995. AJI Broadcasting, Inc., licensee of FM Station KRBG at Canadian, Texas, requests Special Temporary Authority to allow the station to remain silent while the authorized facility upgrade is being completed. The applicant has pending before the Commission a request for an extension of time to construct the facility upgrade. (FCC File No. BMPH-950420JA). A copy of the Form 307 application seeking the extension is attached to this letter. In short, the extension was requested due to health problems of the sole shareholder of the licensee. This health problem delayed the final construction phase of the facility upgrade. In turn, the delays in construction have kept the station off the air, necessitating the need for this request for Special Temporary Authority.

If additional information is needed relating to this matter, please do not hesitate to contact the undersigned.

Sincerely,



William J. Pennington, III
COUNSEL TO AJI BROADCASTING, INC.

Enc.

copy


APR 11 1995

ANTI-DRUG ABUSE ACT CERTIFICATION

The applicant certifies that, in the case of an individual applicant, he or she is not subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862a, or, in the case of a non-individual applicant (e.g. corporation, partnership or other unincorporated association), no party to the application is subject to a denial of federal benefits pursuant to that section. For the definition of a "party" for these purposes, see 47 C.F.R. § 1.2002(b).

☒ Yes

☐ No

Name of Applicant	Signature
A. Jack Idman	
Date	Title
4/15/95	President

ATTACHMENT 4